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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/468,501 12/21/99 MITREVICS

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EXAMINER
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LEYDIG VOIT & MAYER LTD  
TWO PRUDENTIAL PLAZA  
180 NORTH STETSON  
SUITE 4900  
CHICAGO IL 60601-6780

CHAVEZ, P	
ART UNIT	PAPER NUMBER

3635

DATE MAILED:

06/15/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/468,501

Applicant(s)  
Mitrevics

Examiner  
Patrick J. Chavez

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Apr 26, 2001

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-17 is/are pending in the application

4a) Of the above, claim(s) 1-4 and 8-11 is/are withdrawn from consideration

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 5-7 and 12-17 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of Reference Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

20) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election with traverse of Group A, consisting of Figs. 14a, 14b and 14c, in Paper No. 4 is acknowledged. The traversal is on the ground(s) that a serious burden would arise only if the application were restricted to one of the identified inventions. This is not found persuasive because the patentably distinct species of the claimed glazing bead would require a different search. The Examiner wishes to note that although the Applicant elected independent claims 1, 5, 8, 12 and 15 as reading on Group A, drawn to a glazing bead cooperating with a mullion, it appears as though claims 5-7 and 12-17 read on the elected species. Claim 8, drawn to a glazing bead cooperating with a support structure, appears to read on the non-elected species of Group B. For the purposes of this Office Action, claims 5-7 and 12-17 will be treated on the merits, as these claims appear to read on the elected species, Group A.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "one side of each u-shape section being short and the other side being connected" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 5-7, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schilling.

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In Fig. 1, Schilling reveals a bent metal glazing bead, 30, having a pair of spaced apart elongated rectangular cross-section legs, 54; interconnected by a bridge element to form a U-shaped channel, 30; at least one mechanical means, 26 and 44, that cooperates with the bridge element and a portion of a mullion, 24, matingly fitted into the U-shaped channel between the elongated legs to thereby secure the glazing channel to the mullion; wherein the elongated legs of rectangular cross-section, 54, are dimensioned to matingly engage rabbets on either side of the mullion, 24. What is not shown in the '527 reference is the elongated legs to be hollow. Given the instant specification and current material saving practices, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct hollow elongated cross-sectional legs so as to provide a glazing bead at a lower cost due to the use of less material.

In regards to claims 15-17, Schilling discloses the bent metal glazing bead as discussed above, but does not explicitly teach of a glazing bead in combination with a hollow metal wall having a unitary welded frame at its perimeter and at least one mullion welded thereto. However, given Schilling's Fig. 3 and the knowledge of one having ordinary skill in the art, it would have been obvious at the time the invention was made to use the structural teachings of Schilling with building frames of all types.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Chavez whose telephone number is (703) 306-5706.

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June 11, 2001



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